



Appeal Decision

Site visit made on 29 October 2019

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 18th November 2019

Appeal Ref: APP/G4240/W/19/3235933

**Land on the junction of Astley Street and Smith Street, Dukinfield
SK16 4QN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Darren Leetch against the decision of Tameside Metropolitan Borough Council.
 - The application Ref 19/00260/FUL, dated 16 March 2019, was refused by notice dated 20 June 2019.
 - The development proposed is erection of a new 2-storey 13No bed HMO development with parking, amenity and ancillary spaces.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has submitted an open space assessment with the appeal. This was not before the Council during the time that the application was being considered and the Council has not provided comments to the appeal. Notwithstanding, I am satisfied that the Council has been given the opportunity to comment on the appellant's evidence and I have therefore had regard to it in my assessment of the scheme.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area, with particular regard to the protected green space and trees.

Reasons

Character and appearance

4. The appeal site is a small area of amenity green space with mature trees immediately adjacent to Smith Street. Together with 313-321 Astley Street, it occupies part of a triangular piece of land between Astley Street, Chapel Street and Smith Street.
5. Policy OL4 of the Tameside Unitary Development Plan Adopted November 2004 (the UDP) sets out that Protected Green Space, and similar areas which are too small to be shown on the proposals map, will be protected except in specific circumstances. Although the UDP pre-dates the National Planning Policy Framework (the Framework), Policy OL4 is consistent with policies in the Framework that relate to open space.

6. In this case, the proposal is not ancillary to the use of the land. It is not necessary to and it would not support the function of the land as open space. It would not provide a compensatory area of green space in a suitable location. Therefore, the proposal does not meet the exceptions set out in Policy OL4 a) to c).
7. The Open Space Assessment (OSA) seeks to demonstrate that the site would meet the exception in Policy OL4 d), by virtue of being surplus to requirements and of no special significance to the interests of sport and recreation. The OSA relies on a report of a study from 2010 that formed part of the evidence base for the Core Strategy. The full report has not been provided. However, it found a range of different types of open space across Tameside including amenity green space, which is noted to provide opportunities for informal activities or enhance the appearance of the area. Furthermore, it found that Dukinfield has below average amenity space, both in terms of the number of sites and their total area.
8. The 2010 report additionally includes the results of a residents' survey which found, among other things, that fewer than half of respondents across Tameside visited amenity areas on housing estates. This would appear to suggest that the majority of residents who responded did visit local amenity space. Irrespective, there is nothing before me about the number of residents that were surveyed or the return rate in the area surrounding the appeal site. Furthermore, small sites such as the appeal site were not included in the study. It is therefore unclear how the data from across Tameside would relate to the appeal site and the area.
9. While I accept that there are other types of open space elsewhere, the OSA fails to demonstrate that there is an adequate supply of amenity space in the area or that the appeal site is surplus to requirements. Moreover, in the absence of any site-specific assessment, there is no evidence that the appeal site has no significance to the local community. The proposal does not therefore demonstrate that the exception in Policy OL4 d) applies. Policy OL4 is in any case clear that the exceptions would not apply if the land fulfils a local need for amenity space, provides a valued sense of openness in the street scene or maintains the character and environmental quality of the area.
10. The OSA acknowledges that the site is likely to have a residential amenity value. Furthermore, there is evidence before me, including representations from third parties, that the site is valued by local residents including as an area for children's play, for its visual amenity and its contribution to general well-being. This is consistent with the Framework, which emphasizes that green infrastructure is capable of delivering a wide range of environmental and quality of life benefits for local communities and it can contribute to mitigating climate change and improving air quality.
11. While the site is relatively small, it is in a prominent location and it is a conspicuous feature in the surrounding street scenes. Chapel Street is characterised by densely developed terraced properties with high levels of on-street parking to either side of the road. There are small areas of open space, including corner plots, with mature trees at intervals along the road. These, together with scattered trees in gardens, break up and soften the otherwise hard urban landscape. In the vicinity of the appeal site, both Astley Street and Smith Street are more sparsely developed and they have a more open and wooded character and appearance. At close range, the appeal site with its mature tree

group is a dominant and characteristic feature in each of the surrounding street scenes. It is also conspicuous in longer views through the area, by virtue of its positive visual contribution to the network of green infrastructure in the wider townscape.

12. The proposal is the erection of a building immediately adjoining 313 Astley Street with car parking and a small area of private amenity space to the rear adjacent to Smith Street. The proposed building and car parking area would constitute a significant footprint and bulk of built development. The proposal would occupy the whole of the appeal site, resulting in the loss of the amenity green space and the loss of all of the trees.
13. The arboricultural assessment categorises the majority of the trees as low quality and recommends the felling of one in the interests of public safety. Further trees are recommended for felling or tree works, including on the grounds of condition and relationship to neighbouring trees or to facilitate the proposed development. Notwithstanding the need for works and that none of the trees is individually significant, they nevertheless form a significant group. In this respect, the Council considers that the collective amenity value of the group warrants a Tree Preservation Order. On the basis of what I saw at my visit, I agree that the group is a visually attractive and prominent feature and it makes a valuable contribution to the verdant character and appearance of the street scene and the townscape. The loss of the group would therefore result in a significant detrimental effect on the visual amenity of the area.
14. The arboricultural assessment recommends the planting of 8 replacement trees, including 2 oak trees. However, the amenity space between the building and the car parking area would be significantly smaller than the appeal site. It is therefore unclear how a similar or greater number of mature trees, as would be necessary to deliver adequate compensation, could be accommodated within the constraints of the appeal scheme. Moreover, given the potential for conflict between trees, the parking area and the small outdoor space, future occupiers may in any case seek to remove at least some of the replacement trees. Consequently, I am not persuaded that there could be any meaningful replacement tree planting at this site or that planting within the scheme would mitigate the adverse effects of the proposal.
15. Therefore, the proposal does not demonstrate that the protected green space is surplus to requirements. There would be significant harm to the character and appearance of the area, resulting from the loss of the open space and the loss of the tree group. The proposal would conflict with the open space and tree protection aims of Policies OL4, N4 and N5 of the UDP. It would also conflict with policies in the Framework that protect open space and the local environment.

Other Matters

16. I acknowledge that the Council sold the land and that the site is in private ownership. However, Policy OL4 applies to land that is both publicly and privately owned. While I appreciate that the appellant will have acquired the appeal site with a view to developing it, this is not a matter that justifies the proposal.
17. The site was used for housing historically. However, it has been undeveloped since the 1970s and the amenity green space with its significant tree group is now a well-established feature of the local area. In this respect, the glossary to

the Framework is clear that the definition of previously developed land does not include land that was previously developed but where the remains of former structures have blended into the landscape.

18. The ecological assessment found that the gable end of 313 Astley Road, which would be affected by the proposal, has potential to be used by roosting bats. In the absence of further information in the form of a bat emergence survey, there is insufficient information to assess the effects of the proposal on protected species. However, although I have a statutory duty to address the matter, there is no need for me to consider the implications of the proposal on the protected species because the scheme is unacceptable for other reasons.

Planning balance

19. The Council is currently unable to demonstrate a 5 year housing supply and the provisions of Paragraph 11 of the Framework therefore apply. However, the policies that are most important for the determination of this appeal are consistent with the policies in the Framework and they are not therefore out of date.
20. The proposed 13 bed HMO would make a modest contribution to the supply of housing. There would be limited economic benefits, most of which would be realised in the short term during the construction phase. There is little before me to demonstrate that there would be significant social benefits arising from a HMO in this location. Conversely, the proposal would result in the loss of protected green space and the associated valuable tree group. There would be significant harm to the character and appearance of the area. There would also be likely harm to a protected species.
21. Consequently, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework as a whole. The proposal does not therefore benefit from the presumption in favour of sustainable development.

Conclusion

22. For the reasons set out above, the proposal would conflict with the development plan and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal should be dismissed.

Sarah Manchester

INSPECTOR